

**REMARKS/ARGUMENTS**

This Amendment is being filed in response to the Final Office Action dated May 7, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-9 and 21-31 are pending in the Application.

In the Office Action, claims 1-9 and 21-31 are rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the written description requirement and for allegedly failing to comply with the enablement requirement. Further, claims 1-9 and 21-31 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Each of these rejections is respectfully traversed. It is respectfully submitted that claims 1-9 and 21-31 fully comply with the written description requirement and are definite. However, the Applicants have elected to amend the claims to advance prosecution and expedite consideration and allowance of the present application and for better clarity.

Regarding claim 6, the specification makes clear that "the conductive elastomeric material 20 can also be fashioned from a combination of conductive fibers 22 and non-conductive fibers 24

using any known conventional method for weaving, sewing and/or knitting ... Preferably, each non-conductive fiber can have, in addition to an appropriate amount of elasticity and/or extensibility, properties that facilitate comfortable interaction with the skin, such as for example, lycra, spandex, neoprene, polyester, and/or a rubber extruded fibers ... Preferably, the actuator 30 is formed from a relatively rigid material such as, for example, a plastic, a rubber, a combination of plastic and rubber, or any similar material suitable for fashioning the interface 10 of the present invention." (See, Present Application, page 6, lines 1-3, 11-14 and line 23 through page 7, line 3.) Accordingly, in contrast with the assertion of the Final Office Action, the Application is clear that "the actuator being formed from a material that is more rigid than the conductive elastomeric material."

Regarding claim 8, the specification is amended to state that which is clearly depicted in the figures, and which is recited in the claim.

Regarding claims 26, and 27, the specification is clear that (emphasis added) "the interface 10 can be any desired shape, size and/or configuration necessary for facilitating a multitude of

electronic operations/functions." (See, Present Application, page 4, lines 17-19.) The dictionary defines multitude as "a very large number of things" (see, Encarta Dictionary, Word 2003.) FIG. 2 for example depicts four (4) functionalities, namely, rewind, fast forward, play and stop. Accordingly, it is respectfully submitted that two or more functionalities and three or more functionalities is well supported by the specification as presented.

Accordingly, withdrawal of these rejections to claims 1-9 and 21-31 under 35 U.S.C. §112, first paragraph and under 35 U.S.C. §112, second paragraph, is respectfully requested.

In the Office Action, claims 1-9 and 21-27 are rejected are rejected under 35 U.S.C. §102(b) or in the alternative under 35 U.S.C. §103(a) over U.S. Patent No. 6,360,615 to Smela ("Smela"). Claims 1-3 and 5-9 and 21-27 are rejected are rejected under 35 U.S.C. §102(b) or in the alternative under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2002/0075232 to Daum ("Daum"). Claims 1-9 and 21-27 are rejected are rejected under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2001/0017759 to Marmaropoulos ("Marmaropoulos") in view of Smela. Claims 28-31 are rejected are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,346,649 to Karna ("Karna"). Claims 28-31 are rejected are rejected under 35

U.S.C. §103(a) over Marmaropoulos in view of Smela in view of Karna.

These rejections are respectfully traversed. It is respectfully submitted that claims 1-9 and 20-31 are allowable over Smela, Daum, Marmaropoulos and Karna alone and in any combination for at least the following reasons.

Smela shows a position/movement sensitive effect-emitting strain gauge that utilizes an elastically conductive fabric that changes properties as it is stretched and relaxed (see, Smela, Col. 4, lines 18-34). In an embodiment shown in FIG. 5 and described in Col. 11, line 62 through col. 12, line 6, Smela describes that conventional fabric or plastic may be attached to the elastically conductive material for improved structural and mechanical properties. Smela is clear that these areas are "regions of the wearable device that do not generate a signal. Smela further states that additional structural components may be utilized as a housing. Clearly Smela does not show an interface. Further, nowhere within the four corners of Smela is it disclosed or suggested that an actuator is cooperative with the conductive elastomeric material such that a user interaction with the actuator is

translated to the conductive elastomeric material to produce the signal.

Daum shows a data glove formed of flexible textile material, a portion of which has inner and outer layers with a layer of sensors situated between the inner and outer textile layers (see, FIG. 1 and paragraphs [0009] and [0033]). As is clear from a review of Daum, no where within the four corners of Daum is it disclosed or suggested that an actuator is cooperative with the conductive elastomeric material such that a user interaction with the actuator is translated to the conductive elastomeric material to produce the signal.

Marmaropoulos shows a garment having cords 22, 24 that are formed of a stretchable material having electrical resistance that varies with applied tension (see, FIGs. 1 and 4 and paragraph [0016]). The cords 22, 24 are connected mechanically to opposite ends of an insulating grip or bead 48. Marmaropoulos does not disclose or suggest an actuator that is cooperative with the conductive elastomeric material such that a user interaction with the actuator is translated to the conductive elastomeric material to produce the signal and further does not disclose or suggest the actuator is formed from one or more of a plastic or rubber.

Karna is just cited to show that an electrically conductive plastic is known however, it is respectfully submitted that this has little to do with the claims as presented.

It is respectfully submitted that the textile construction of claim 1 is not anticipated or made obvious by the teachings of Smela, Daum, Marmaropoulos and Karna. For example, Smela, Daum, Marmaropoulos and Karna does not disclose or suggest, a textile construction that amongst other patentable elements, comprises (illustrative emphasis added) a conductive elastomeric material suitable for converting an interaction therewith into a signal; and an actuator cooperative with said conductive elastomeric material to provide a user interfacier such that a user interaction with the actuator is translated to said conductive elastomeric material to produce said signal, wherein said actuator is separate from said conductive elastomeric material and is formed from one or more of a plastic and rubber" as recited in claim 1.

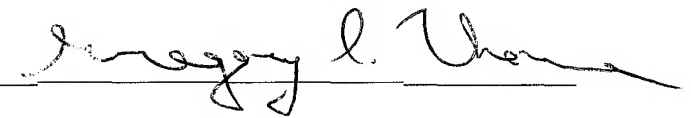
Based on the foregoing, the Applicants respectfully submit that independent claim 1 is patentable over Smela, Daum, Marmaropoulos and Karna alone and in any combination and notice to this effect is earnestly solicited. Claims 2-9 and 21-31 respectively depend from claim 1 and accordingly are allowable for

at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398  
Attorney for Applicant(s)  
July 7, 2009

**THORNE & HALAJIAN, LLP**  
Applied Technology Center  
111 West Main Street  
Bay Shore, NY 11706  
Tel: (631) 665-5139  
Fax: (631) 665-5101